

Message Text

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ORIGIN SS-25

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DRAFTED BY EA/VN:RHWENZEL:AOA
APPROVED BY THE ACTING SECRETARY
AID-MR. MURPHY (DRAFT)
CIA-MR. SHACKLEY (DRAFT)
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R 020118Z NOV 74
FM SECSTATE WASHDC
TO AMEMBASSY SAIGON

S E C R E T STATE 241315

EXDIS

E.O. 11652:GDS
TAGS: PBOR, VS
SUBJECT: AIR AMERICA DIVESTITURE

REF: A. SAIGON 13582; B. STATE 236245

1. AS WE SEE IT, THERE ARE FOUR IMPORTANT OBJECTIVES THAT
WE MUST BEAR IN MIND IN ADDRESSING THIS ISSUE:

(A) THE FIRST OBVIOUSLY IS TO EFFECT AIR AMERICA DIVESTI-
TURE BY NO LATER THAN JUNE 30, 1975, IN ACCORDANCE WITH THE
GUIDELINES SET BY THE CONGRESS.

(B) THE SECOND IS TO PROVIDE FOR SATISFACTORY AIR SERVICES
FOR THE U.S. MISSION AT THE LOWEST POSSIBLE COST AFTER AIR
AMERICA STANDS DOWN.

(C) THE THIRD IS TO ARRANGE FOR THE FOLLOW-ON CONTRACTS
IN A MANNER WHICH WILL BE MOST ACCEPTABLE TO THE CONGRESS
AND WHICH WILL NOT JEOPARDIZE THE OTHER MORE VITAL EFFORTS

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WE ARE MAKING ON THE HILL WITH RESPECT TO ECONOMIC AND

MILITARY AID. IN THIS REGARD WE ALSO WISH TO AVOID UNNECESSARY CONTROVERSY GROWING OUT OF POSSIBLE GAO INTERVENTION AND NEWS MEDIA REPORTS.

(D) THE FOURTH IS TO ARRANGE DIVESTITURE AND FOLLOW-ON CONTRACTS IN A MANNER WHICH WILL BE LEAST DISRUPTIVE TO

US-RVN RELATIONS.

2. IN CONSIDERING THESE VARIOUS INTERESTS, WASHINGTON OFFICIALS AT A MEETING OCTOBER 25 CHAIRED BY THE ACTING SECRETARY OUTLINED FOUR POSSIBLE COURSES OF ACTION:

(A) STAY WITH THE DETERMINATION AS SET FORTH IN THE DEPUTY SECRETARY'S MEMORANDUM OF SEPTEMBER 11, 1974 TO THE DEPUTY ADMINISTRATOR OF AID THAT THE PRESENT CONTRACT BE NOVATED AS SOON AS POSSIBLE TO CASI THROUGH JUNE 30, 1975, WITH THE PROBABILITY OF OPEN COMPETITIVE BIDDING FOR CONTINUING SERVICES IN FY-1976.

(B) NEGOTIATE AS SOON AS POSSIBLE A SOLE SOURCE PROCUREMENT CONTRACT WITH CASI FOR SERVICES IN FY-1976, BEFORE ANTICIPATED RATE INCREASES GO INTO EFFECT. THIS WOULD REQUIRE A DETERMINATION THAT THE CONTRACTOR HAS EXCLUSIVE OR PREDOMINANT CAPABILITY IN THE FIELD, WHICH AID DOES NOT CONSIDER IS APPLICABLE TO CASI AND, IN ADDITION, THE SECRETARY'S WRITTEN FINDING THAT PROCUREMENT FROM ANOTHER SOURCE WOULD IMPAIR FOREIGN POLICY OR FOREIGN ASSISTANCE OBJECTIVES.

(C) DEFER A FINAL DECISION UNTIL DECEMBER 31, 1974 (WHICH WOULD LIKELY OBLVIATE THE NOVATION OPTION) AT WHICH TIME WE COULD:

(1) NEGOTIATE A SOLE SOURCE CONTRACT WITH CASI (SUBJECT TO THE SAME CONSIDERATIONS AS IN (B) ABOVE); OR

(2) PROCEED WITH A REQUEST FOR PROPOSAL WHICH WOULD INCLUDE A PROVISION ALONG THE FOLLOWING LINES: QUOTE CONTRACTOR SHALL PROVIDE EVIDENCE, SATISFACTORY TO THE SECRET

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CONTRACTING OFFICER BEFORE AWARD, OF ITS ABILITY TO OBTAIN THE AIR RIGHTS, SERVICES, AND PROPERTY REQUIRED TO SATISFACTORILY PERFORM THE REQUIREMENTS OF THIS CONTRACT UNQUOTE.

3. COMMENT;

(A) WE UNDERSTAND THERE ARE SOME 20 U.S. COMPANIES THAT

HAVE INDICATED AN INTEREST IN BIDDING ON AN FY-1976 AIR SERVICES CONTRACT, OUT OF WHICH WE MIGHT RECEIVE FOUR OR FIVE SERIOUS BIDS. IN THIS LIGHT WE ARE ALMOST CERTAIN TO RECEIVE SOME SHARP CONGRESSIONAL INQUIRIES IF WE GO EITHER THE NOVATION OR SOLE SOURCE PROCUREMENT ROUTE. SOLE SOURCE COULD ALSO RESULT IN GAO PROTEST AND A RESULTING REVIEW OF THE BASIS OF THE SOLE SOURCE

DETERMINATION. WE ARE PREPARED TO SUPPORT EITHER OF THESE COURSES OF ACTION ON THE HILL AND ARE HOPEFUL THAT WE COULD FRAME AN ADEQUATE DEFENSE. WHAT IS FOREMOST IN OUR MINDS HOWEVER IS WHETHER IT IS WORTH THE ALMOST CERTAIN RISK OF HARM TO OUR MAJOR OBJECTIVES OF OBTAINING SATISFACTORY MILITARY AND ECONOMIC AID LEVELS BY STIRRING UP CONGRESSIONAL ANTAGONISM ON THIS LESSER ISSUE OF AIR SERVICE CONTRACTS. IN THIS CONNECTION WE WOULD NOTE THAT SOLE SOURCE MIGHT BE NO MORE DIFFICULT TO SELL ON THE HILL THAN NOVATION WITH SUBSEQUENT RFP SINCE THE FORMER IS MORE STRAIGHTFORWARD AND LACKS THE ASPECT OF "SUBTERFUGE" WHICH SOME MIGHT READ INTO THE NOVATION PROCESS. WE WOULD NOTE FURTHER THAT CIA'S PERCEPTION OF THE NEED FOR QUICK DIVESTITURE HAS BEEN MODIFIED TO PERMIT AS A COMMUNITY SERVICE THE CONTINUATION OF AIR AMERICA TO NO LATER THAN JUNE 30, 1975.

(B) THERE IS FRANKLY SOME DIFFERENCE OF VIEW BETWEEN AID AND STATE CONCERNING THE NECESSITY OF TAKING INTO ACCOUNT RVN SENSIBILITIES IN THIS MATTER. AID WOULD TEND TO REGARD THE AWARDED OF AN AIR SERVICES CONTRACT AS LARGELY THE BUSINESS OF THE MISSION JUST LIKE ANY OTHER CONTRACT IN SUPPORT OF U.S. OPERATIONS IN VIET-NAM. THEY POINT OUT THAT WE HAVE NOT CONSULTED WITH THE GVN IN ARRANGING AIR CONTRACTS IN RECENT YEARS. THE DEPARTMENT
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ON THE OTHER HAND ACCEPTS YOUR ARGUMENT THAT THIS IS A SPECIAL KIND OF CONTRACT AND THAT, WITH AIR AMERICA DEPARTING, THE GVN SHOULD HAVE A SAY AS TO WHAT FOREIGN FIRMS PERFORM AIR SERVICES WITHIN ITS TERRITORY. WE ALSO RECOGNIZE THE PERTINENCE OF THE PRESENT CONTEXT OF DISSENT IN SOUTH VIET-NAM AND THE EFFECT OF THIS ON US-RVN RELATIONS. AT THE SAME TIME WE ARE SOMEWHAT SURPRISED AT THE STRENGTH OF GVN VIEWS ON THIS MATTER, AS REPORTED REF A. AGAIN, IT SEEMS TO US THAT AIR SERVICES, HOWEVER SENSITIVE, SHOULD BE VIEWED BY THE GVN AS A PROBLEM OF LIMITED DIMENSION AND DURATION WHEN PLACED IN THE CONTEXT OF THE OVERWHELMING PROBLEMS OF ECONOMIC VIABILITY, DEFENSE AND FOREIGN AID LEVELS WHICH THE GVN IS CURRENTLY FACING. THUS WE WOULD HOPE AND ANTICIPATE THAT THE GVN WOULD GO ALONG WITH WHATEVER REASONABLE SO-

LUTION WE WOULD PROPOSE IN THIS AREA.

(C) IN CONSIDERATION OF THE FOREGOING, AND PARTICULARLY IN THE LIGHT OF OUR CONGRESSIONAL RELATIONS PROBLEM, OUR PRESENT INCLINATION IS TO FOLLOW OPTION 2(C) 2 -- THAT IS AN RFP WITH SPECIFIED CONDITIONS OF ACCEPTABILITY. CIA AND AID WOULD FIND THIS A SATISFACTORY SOLUTION; IT WOULD ALSO BEST SERVE OUR PURPOSES ON CAPITOL HILL AND DECREASE LIKELIHOOD OF GAO INVESTIGATIONS BASED UPON

CONTRACTOR PROTEST. IT WOULD BE THE RESPONSIBILITY OF THE BIDDING COMPANIES TO DEAL WITH THE GVN IN AN EFFORT TO WORK OUT AIR RIGHTS. IN THIS CONTEXT THE GVN COULD BRING TO BEAR ITS VIEWS ON THE MATTER, SPECIFICALLY WITH REGARD TO WHICH AIR SERVICE IS ACCEPTABLE WITHIN GVN AIR SPACE. AT THE TIME OF LAST YEAR'S RFP, FOR EXAMPLE, WE UNDERSTAND THAT THREE BIDDERS PRESENTED EVIDENCE OF JOINT VENTURES WITH AIR VIET-NAM -- I.E. CASI, JOHNSON ASSOCIATES, INC. AND NHA - AIR VIET-NAM AVIATION SERVICES. WHILE THE SITUATION IS DIFFERENT THIS YEAR (WITH AIR AMERICA STANDING DOWN), WE WOULD SEE NO REASON WHY ANY PROSPECTIVE BIDDER COULD NOT AT LEAST SEEK TO CONCLUDE A JOINT VENTURE AGREEMENT WITH AIR VIET-NAM IF SUCH IS NOW LACKING. WE RECOGNIZE ALSO THAT AN RFP MIGHT OPEN UP THE POSSIBILITY OF AIR VIET-NAM'S BIDDING ON THE CONTRACT. SINCE WE ARE NOT PREPARED TO ACCEPT AT THIS STAGE AIR VIET-NAM'S COM-
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PETENCE TO FULFILL THE CONTRACT TO OUR SATISFACTION, WE WOULD HAVE TO SO INFORM THE GVN. PREFERABLY, WE WOULD SEEK THROUGH CONSULTATIONS WITH THE GVN TO FORESTALL ANY POSSIBLE AIR VIET-NAM BID SO TO LIMIT OPEN CONTROVERSY AT THE TIME OF THE BIDDING.

4. YOUR FURTHER COMMENTS ON THE FOREGOING WOULD BE APPRECIATED. INGERSOLL

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